

June 18, 2003

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**RECOMMENDATION TO PROVIDE LEGAL REPRESENTATION FOR A LAW
CLERK IN THE DISTRICT ATTORNEY'S OFFICE FOR AN ADMINISTRATIVE
PROCEEDING BROUGHT BY THE STATE BAR (ALL DISTRICTS) (3-VOTES)**

IT IS RECOMMENDED THAT YOUR BOARD:

1. Find that the administrative proceeding is brought on account of an act or omission in the scope of the law clerk's employment as an employee of the District Attorney's Office.
2. Find that the defense of the law clerk employee would be in the best interests of the County.
3. Find that the law clerk employee acted, or failed to act, in good faith, without actual malice, and in the apparent interests of the County.
4. Direct County Counsel to secure legal representation, at the County's expense, for one law clerk in the District Attorney's Office.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTIONS:

I seek your Board's approval of my recommendation to provide legal representation for a District Attorney Law Clerk who has been requested to meet with a deputy trial counsel of the State Bar of California to discuss allegations of professional misconduct. The allegations arise from an incident in 2001 relating to discovery issues during a criminal trial. The law clerk in question was assisting the deputy district attorney prosecuting the case.

On April 30, 2003, a deputy trial counsel with the State Bar sent a Notice of Intent to File Notice of Disciplinary Charges to the law clerk asserting that the State Bar had conducted an investigation concerning allegations of professional misconduct on the part of the law clerk. The letter offers the law clerk an opportunity to meet with the deputy trial counsel to discuss these allegations. That meeting was originally scheduled for May 20, 2003, however an extension has been granted.

I have reviewed the facts and circumstances surrounding this case. The law clerk has worked for the District Attorney's Office since October 1999. At the time of the incident, the law clerk was employed by the District Attorney's Office and was acting within the course and scope of her employment and as directed by her superiors. My review reveals no indication that the law clerk acted with malice. Rather, at all times it appears that the law clerk acted in good faith and in the apparent interests of the People of the State of California and the County of Los Angeles. Further, I believe that defense of this law clerk would be in the best interests of the County.

FISCAL IMPACT/FINANCING:

The costs for providing legal representation should not exceed \$10,000. Funds will be allocated from the District Attorney's existing operating budget.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS:

Government Code Section 995.6 provides that the County is not required to provide for the defense of an administrative proceeding brought against a County employee, but the County may provide for such defense if:

- (a) The administrative proceeding is brought on account of an act or omission in the scope of his employment as an employee of the public entity; and
- (b) The public entity determines that such defense would be in the best interests of the public entity and that the employee or former employee acted, or failed to act, in good faith, without actual malice and in the apparent interests of the public entity.

CONTRACTING PROCESS:

Contracting process requirements are not applicable.

IMPACT ON CURRENT SERVICES (OR PROJECTS):

None.

CONCLUSION:

I recommend that your Board find that the District Attorney law clerk acted in good faith, without actual malice, and in the apparent interests of the County and that her representation at the meeting with the deputy trial counsel of the State Bar is in the best interests of the County. I further recommend that your Board direct County Counsel to secure legal representation for the law clerk at the County's expense.

Respectfully submitted,

STEVE COOLEY
District Attorney

sjm

c: Chief Administrative Officer
County Counsel
Executive Officer, Board of Supervisors